3 DILLON, MUNICIPAL CORPORATIONS, 1992. Moreover, the defendant's unauthorized construction of its poles and lines on a street or highway is a public nuisance. *Van Horne* v. *Newark P. Ry. Co.*, 48 N. J. Eq. 332, 21 Atl. 1034. And one suffering a pecuniary loss proximately resulting from a public nuisance may abate it in equity. *Griswold* v. *Brega*, 160 Ill. 490, 43 N. E. 864. Some courts have refused to grant an injunction because the plaintiff seeks to prevent competition. *Coffeyville M. & G. Co.* v. *Citizens' N. G. & M. Co.*, *supra; Baxter T. Co.* v. *Cherokee C. M. T. A.*, 94 Kan. 159, 146 Pac. 324. Public welfare especially requires that public utilities shall compete whenever conditions warrant it. *East St. L. Ry. Co.* v. *East St. L. U. Ry. Co.*, 108 Ill. 265. But free competition in the principal case would be subversive of the public interest, because adequate service there requires no duplication.

MALICIOUS PROSECUTION — CIVIL SUIT — ABSENCE OF ARREST OR SEIZURE. — In an action for malicious prosecution in a civil suit, where there had been neither arrest of the person of the plaintiff nor seizure of his property, *held*, that the plaintiff could recover. *Pearson* v. *Ashcraft Cotton Mills*, 78 S. W. 204 (Ala.).

Alabama, meeting this question for the first time, takes its place among the states allowing such recovery. The English rule, owing to the Statute of Marlbridge (52 HEN. III, c. 6), which allowed heavy costs *pro falso clamore* to the defendant in a civil action, denies such relief in a separate action for malicious prosecution. *Savile* v. *Roberts*, 1 Ld. Ray. 374. Formerly the weight of American authority was in accord with the English rule. *Wetmore* v. *Mellinger*, 64 Ia. 741, 18 N. W. 870; *Potts* v. *Imlay*, 4 N. J. L. 382. See cases cited in AMES'S and SMITH'S CASES ON TORTS, Pound's ed., 1917, 650. But now the weight of authority seems to have swung to the other side. *Kolka* v. *Jones*, 6 N. D. 461, 71 N. W. 558. On principle, American costs being meagre, the view of the principal case seems sound. The fear of multiplying litigation is without merit. To deny relief might often lead to persecution without remedy. See 9 HARV. L. REV. 538.

MASTER AND SERVANT — WORKMEN'S COMPENSATION ACT — CHARITABLE INSTITUTION. — An employee sued a purely charitable institution under the Act for injury by a buzz planer. The Massachusetts Workmen's Compensation Act in terms includes all employees, one clause specifically excepting farm laborers and domestic servants. MASS. STAT. 1911, c. 751, §§ 1, 2. *Held*, that charitable institutions are impliedly excepted. *Zoulalian* v. *New England Sanatorium & Benevolent Association*, 119 N. E. 686 (Mass.).

Charitable organizations are generally not liable for the negligence of servants or agents. *McDonald* v. *Mass. General Hospital*, 120 Mass. 432. In England the law is in some confusion as regards their liability at common law; hence a decision holding such an institution liable under the Act may not apply to the principal case. *MacGillivray* v. *Institute for The Blind*, 1911, S. C. 897, 48 Scot. L. R. 811. Public commissions managing essentially private or quasi-public enterprises have been held to come under the Act. *In re Ryan*, N. S. Wales St. Rep. 33; *Gilroy* v. *Makie*, 1909, S. C. 466, 46 Scot. L. R. But see *Brown* v. *Decatur*, 188 Ill. App. 147. The California Act specifically includes "the state . . . and all . . . having persons in service for hire." 1917 STAT. c. 2143, § 7. The Massachusetts court properly holds that the specific exemption of farm laborers and domestic servants does not necessarily imply that all other workmen are included. More doubtfully the court finds an implied exception in the general intent expressed in the law. The economic principle on which Workmen's Compensation Acts are often justified obviously would not apply to charitable institutions. Yet, as apparently in California, it may be thought that on humanitarian principles every enterprise should